

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:	Toni KOPRA <i>et al.</i>	Confirmation No.:	4278
Application No.:	10/511,797	Examiner:	Rustemeyer, Brett J.
Filed:	October 19, 2004	Group Art Unit:	2426

For: USER TERMINAL, MEDIA SYSTEM AND METHOD OF DELIVERING
OBJECTS RELATING TO BROADCAST MEDIA STREAM TO USER
TERMINAL

Commissioner for Patents
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

This Appeal Brief is submitted in support of the Notice of Appeal dated December 24, 2009.

I. REAL PARTY IN INTEREST

Nokia Corporation is the real party in interest.

II. RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any related Appeal or Interference.

III. STATUS OF THE CLAIMS

Claims 1 through 28, each previously presented, are pending in this Appeal. Claims 1 through 28 were finally rejected in an Office Action dated August 25, 2009. It is from the final rejection of claims 1 through 28 that this Appeal is taken.

IV. STATUS OF AMENDMENTS

An Amendment was filed on May 15, 2009, amending claims 1, 4, 6, 7, 10, 11, 14, 16, 17, 20 through 22, 24, and 25, and adding claims 26 through 28. This amendment has been entered. Therefore, the claims on Appeal, as reflected in the Claims Appendix, are the claims as amended by the Amendment filed on May 15, 2009.

An Amendment, filed concurrently with this Appeal Brief, amends claim 11 to address an informality identified by the Examiner underlying the claim objection which is not the subject of this Appeal.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention addresses problems associated with acquiring and delivering objects related to a broadcast media to a user terminal. In particular, as a user accesses a broadcast media such as a television program or a radio show, the broadcast media may provide the user with information about services available via the Internet. Conventionally, when the broadcast media provides information about services (e.g. ring tones available for download), the user would employ a personal computer to access corresponding service addresses to obtain the available services, and these services are delivered to the user terminal in a form of objects, for example. However, this process requires a personal computer, which may not be readily

available to the user, and using the personal computer to navigate and to locate the available services may be laborious and time-consuming. The claimed invention solves that problem by delivering to the user terminal the object identification of the object associated to the broadcast media stream, so as to present the object identification in synchronization with the media stream, and, upon a user's request, delivering the object to the user terminal.

Independent claim 1 recites:

1. A method of delivering an object relating to a broadcast media stream to a user terminal of a mobile radio system, the method comprising:

broadcasting the media stream by a broadcast system (See, e.g. FIG. 7, Specification ¶¶ [0028], [0082]),

associating the object to the media stream in the broadcast system (See, e.g. FIG. 7, Specification ¶ [0082]),

delivering an object identification of the object and a widget wirelessly from the broadcast system to at least one user terminal (See, FIG. 7, e.g. Specification ¶¶ [0070], [0082]),

presenting the object identification and the widget in synchronization with the media stream in the user terminal (See, e.g. FIG. 7, Specification ¶¶ [0070], [0082]),

sending, if a user requests the delivery of the object based on the object identification, a transaction signal with the object identification from the user terminal to a database of at least one object through the mobile radio system by activating the widget (See, e.g. FIG. 7, Specification ¶¶ [0032], [0071], [0072], [0082]), and

delivering the object of the object identification from the database to the user terminal, which sent the request signal, through the mobile radio system (See, e.g. FIG. 7, Specification ¶¶ [0073], [0082]).

Independent claim 11 recites:

11. A media system relating to a broadcast system configured to broadcast a media stream, the media system further comprising:

a mobile radio system including at least one base station and at least one user terminal, the broadcast system having a connection to the mobile radio system (See, e.g. Specification ¶¶ [0028], [0058]),

the broadcast system being configured to associate at least one object identification to a broadcasting timeline of the broadcast media stream and the broadcast system being configured to deliver object identifications and at least one widget wirelessly to the user terminals (See, e.g. FIG. 7, Specification ¶ [0082]);

the user terminal being configured to receive at least one object identification and the at least one widget from the broadcast system and to present the at least one object identification and the at least one widget in synchronization with the media stream, and the user terminal being configured to send, if a user requests the delivery of the object based on an object identification, a transaction signal with the object identification to a database having at least one object through the mobile radio system by activation of the widget (See, e.g. FIG. 7, Specification ¶¶ [0032], [0070], [0071], [0072], [0082]), and

the database being configured to deliver the object of the object identification to the user terminal, which sent the request signal, through the mobile radio system (See, e.g. FIG. 7, Specification ¶¶ [0073], [0082]).

Independent claim 21 recites:

21. A user terminal of a mobile radio system, wherein the user terminal is configured to receive an object identification of an object and a widget wirelessly from a broadcast system, the object being associated and synchronized to the broadcast media stream in the broadcast system (See, e.g. FIG. 7, Specification ¶ [0082]), present the object identification and the widget in synchronization with the media stream in the user terminal (See, e.g. FIG. 7, Specification ¶¶ [0070], [0082]), send, if a user requests the delivery of the object based on the object identification, a transaction signal with the object identification of at least one object through the mobile radio system to a database by activation of the widget (See, e.g. FIG. 7, Specification ¶¶ [0032], [0071], [0082]), and receive the object of the object identification delivered from the database through the mobile radio system (See, e.g. FIG. 7, Specification ¶¶ [0073], [0082]).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Claims 1 through 4, 6 through 14, 16 through 22, and 24 through 28 were rejected under 35 U.S.C. §103(a) for obviousness predicated upon *Ferris et al.* (“*Ferris*”) in view of *Burgess et al.* (“*Burgess*”).

B. Claims 5, 15, and 23 were rejected under 35 U.S.C. §103(a) for obviousness over *Ferris* in view of *Burgess* and ETS 300 401 – “Radio Broadcasting Systems; Digital Audio Broadcasting (DAB) to Mobile, Portable, and Fixed Receivers, 2nd Edition (“*ETS 300 401*”).

VII. ARGUMENT

A. CLAIMS 1 THROUGH 4, 6 THROUGH 14, 16 THROUGH 22 AND 24 THROUGH 28 ARE NOT RENDERED OBVIOUS BY THE COMBINED DISCLOSURES OF *FERRIS* AND *BURGESS*. BECAUSE THE WIDGET AND THE OBJECT IDENTIFICATION OF THE CLAIMED INVENTION ARE NOT DISCLOSED BY EITHER REFERENCE

The Examiner bears initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention under any statutory provision. *Gilbert & P. Hyatt v. Dudas*, 551 F.3d 1307, 1313 (Fed. Cir. 2008); *In re Glaug*, 283 F.3d 1335 (Fed. Cir. 2002); *In re Rijkaert*, 9 F.3d 1531, 1532 (Fed. Cir. 1992); *In re Oetiker*, 977 F.2d 1992; *In re Piasecki*, 745 F.2d 1468 (Fed. Cir. 1984). *See, also, M.P.E.P. §2144 II.A.* In rejecting a claim under 35 U.S.C. §103(a), the Examiner is required to provide a factual basis to support the obviousness conclusion. *In re Warner*, 379 F.2d 1011, 154 USPQ 173 (CCPA 1967); *In re Lunsford*, 357 F.2d 385, 148 USPQ 721 (CCPA 1966); *In re Freed*, 425 F.2d 785, 165 USPQ 570 (CCPA 1970). Further, in rejecting a claim under 35 U.S.C. §103(a) it is incumbent upon the Examiner to establish the requisite motivation. As maintained by the Supreme Court of the United States in *KSR Intern. Co. v. Teleflex Inc.*, 127 S.Ct. 1727 at 1741, an obviousness “analysis should be made explicit.” *See, In re Kahn*, 441 F.3d 977, 988 (C.A. Fed. 2006) (“[R]jections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusions of obviousness”). Indeed, the Examiner is required to make specific factual findings, not generalizations. *See*

M.P.E.P. §2144.08 II. A. 5. That initial burden required by procedural **due process of law** has not been discharged.

Independent claim 1 recites, among other features, **“delivering an object identification of the object and a widget wirelessly from the broadcast system to at least one user terminal, presenting the object identification and the widget in synchronization with the media stream in the user terminal,”** and **“sending ... a transaction signal with the object identification from the user terminal to a database having at least one object through the mobile radio system by activating the widget.”** Independent claim 11 recites, among other features, **“the user terminal being configured to receive at least one object identification and the at least one widget from the broadcast system and to present the at least one object identification and the at least one widget in synchronization with the media stream, and the user terminal being configured to send ... a transaction signal with the object identification to a data base having at least one object through the mobile radio system by activation of the at least one widget.”** Similar features are recited in independent claim 21.

In the Amendment filed on May 15, 2009, it was argued that the applied references do not teach or suggest the features of independent claims, notably **“presenting the object identification and the widget in synchronization with the media stream in the user terminal”** and **“sending ... by activating the widget.”** It was further argued that the applied references do not teach or suggest use of the widget as claimed. In the Office Action of August 25, 2009, the Examiner referred to *Ferris*, FIG. 1, 2A, 3 and 4, and paragraphs [0049], [0056]-[0057], [0062], [0093], and [0095]-[0096], asserting that *Ferris* teaches the widget of the claimed invention, by equating the display data of *Ferris* to the widget of the claimed invention. Appellants strenuously disagree.

Ferris teaches providing to the users of broadcast receivers economic display of advertisements, product and service offers, and other information (collectively, “display data”) (see paragraph [0026] of *Ferris*). *Ferris* further teaches displaying a PAD display data to the user at an appropriate cue point, wherein the cue point is the point in time of activation. However, the display data of *Ferris* cannot be equated to the widget of the claimed invention. As disclosed in *Ferris*, the display data is data for displaying advertisements, product and service offers, and other information. The display data is shown in the LCD display 14 and controls 13 and 15 may be used to invoke options shown on the LCD display 14. Thus, the display data may be text data with information about cue points, whereas a widget is a software piece used to display information. The display data in *Ferris* is not a widget that can be activated based on user selection, but rather a data provided to the user device so that the data can be displayed. Hence, *Ferris* does not teach or suggest the widget of the claimed invention. Further, the display data in *Ferris* is not delivered from the broadcasters 402, whereas the widget in the claimed invention is delivered from the broadcast system. Therefore, the source of the widget in the claimed invention is different from the source of the display data in *Ferris*.

Additionally, in the Office Action of August 25, 2009, the Examiner equates the PADUID of *Ferris* to object identification recited in the claims (see pages 5-6 of the Office Action). As described in *Ferris*, PAD is Programme Associated Data (see paragraph [0012]) and PADUID is PAD unique identification number (see paragraph [0052]). Thus, *Ferris*’s PADUID is a unique identification number to identify Programme Associated Data, and is transmitted with the PAD for proper identification of the PAD. In particular, PADUID is utilized, for example, to identify PAD to synchronize the PAD items for content, when the cue-up time is changed after the transmission of the PAD (see paragraph [0050], [0079]). By contrast, object identification

recited in the present claims is used to identify an object such that the object of the object identification can be delivered from the database to the user terminal. The Examiner erroneously equates an advertised product or service to the object of the claimed invention alleging that object is disclosed by *Ferris* (See, page 5 line 17 of the Office Action). However, PADUID does not identify the advertised product or service, but rather identifies the Programme Associated Data, which may include data related to the advertised product or service. Therefore, *Ferris*'s PADUID cannot be equated to the object identification of the claimed invention.

Burgess has not been relied upon, and fails, to cure the above-argued deficiencies of *Ferris*. Accordingly, even if the applied references are combined as proposed by the Examiner, and Appellants do not agree that the requisite realistic motivation has been established, the claimed inventions would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044 (Fed. Cir.1988). Appellants therefore respectfully solicit the Honorable Board to reverse the Examiner's rejection of claims 1 through 4, 6 through 14, 16 through 22, and 24 through 28 under 35 U.S.C. §103(a).

B. CLAIMS 5, 15 AND 23 ARE NOT RENDERED OBVIOUS BY THE COMBINED DISCLOSURES OF *FERRIS*, *BURGESS*, AND *ETS 300 401*. BECAUSE *ETS 300 401* FAILS TO CURE THE DEFICIENCIES OF *FERRIS* AND *BURGESS*

Claims 5, 15, and 21 depend from independent claims 1, 11, and 23, respectively. Appellants incorporate herein the arguments previously advanced in traversing the imposed rejection of claims 1, 11, and 21 under 35 U.S.C. §103(a) for obviousness predicated upon *Ferris* in view of *Burgess*. The additional reference to *ETS 300 401* does not cure the previously argued deficiencies in the attempted combination of *Ferris* and *Burgess*. Indeed, the Examiner cited *ETS 300 401* for an alleged teaching of an RDS broadcast. However, *ETS 300 401* does not disclose

“delivering an object identification of the object and a widget wirelessly from the broadcast system to at least one user terminal, presenting the object identification and the widget in synchronization with the media stream in the user terminal,” and “sending ... a transaction signal with the object identification from the user terminal to a database having at least one object through the mobile radio system by activating the widget,” as recited in independent claim 1, and similarly recited in independent claims 11 and 21. Accordingly, even if the applied references are combined as proposed by the Examiner, and Appellants do not agree that the requisite basis to support the asserted motivation has been established, the claimed invention would not result.

Uniroyal, Inc. v. Rudkin-Wiley Corp., supra.

Appellants therefore respectfully solicit the Honorable Board to reverse the Examiner’s rejection of claims 5, 15, and 23 under 35 U.S.C. §103(a).

VIII. CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, Appellants request the Honorable Board to reverse each of the Examiner’s rejections.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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April 26, 2010
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IX. CLAIMS APPENDIX

1. A method of delivering an object relating to a broadcast media stream to a user terminal of a mobile radio system, the method comprising: broadcasting the media stream by a broadcast system,

associating the object to the media stream in the broadcast system,

delivering an object identification of the object and a widget wirelessly from the broadcast system to at least one user terminal,

presenting the object identification and the widget in synchronization with the media stream in the user terminal,

sending, if a user requests the delivery of the object based on the object identification, a transaction signal with the object identification from the user terminal to a database of at least one object through the mobile radio system by activating the widget, and delivering the object of the object identification from the database to the user terminal, which sent the request signal, through the mobile radio system.

2. The method of claim 1, the method further comprising providing the broadcast system with object identifications of the objects available in a database of an object provider.

3. The method of claim 1, the method further comprising creating the objects and the object identifications in the broadcast system and saving the objects in a database.

4. The method of claim 1, the method further comprising delivering the object identification from the broadcast system to at least one user terminal through the mobile radio system.

5. The method of claim 1, the method further comprising delivering the object identification from the broadcast system to at least one user terminal as an RDS broadcast.

6. The method of claim 1, the method further comprising sending the transaction signal from the user terminal directly to the database of the object provider through the mobile radio system.

7. The method of claim 1, the method further comprising sending first the transaction signal from the user terminal to a server serving the broadcast system through the mobile radio system, and sending a signal with the object identification from the server to the database of the object provider.

8. The method of claim 1, the method further comprising associating the object identification to the media stream such that the object identification is attached to a broadcasting timeline of the media stream, and delivering the object identification in accordance with the broadcasting timeline of the media stream.

9. The method of claim 1, the method further comprising recording and processing the transfer of each object to the user terminals by means of a transaction processing device.

10. The method of claim 1, the method further comprising identifying the format of the object identification and the object by means of the user terminal, the identifying revealing information, including the supporting application needed, additional rights pertaining to the object, forwarding limitations associated with the object, or any combination thereof.

11. A media system relating to a broadcast system configured to broadcast a media stream, the media system further comprising:

a mobile radio system including at least one base station and at least one user terminal, the broadcast system having a connection to the mobile radio system, the broadcast system being configured to associate at least one object identification to a broadcasting timeline of the broadcast media stream and the broadcast system being configured to deliver object identifications and at least one widget wirelessly to the user terminals; the user terminal being configured to receive at least one object identification and the at least one widget from the broadcast system and to present the at least one object identification and the at least one widget in synchronization with the media stream, and the user terminal being configured to send, if a user requests the delivery of the object based on an object identification, a transaction signal with the object identification to a database having at least one object through the mobile radio system by activation of the widget, and the database being configured to deliver the object of the object identification to the user terminal, which sent the request signal, through the mobile radio system.

12. The system of claim 11, wherein the database of the object provider is configured to provide the broadcast system with object identifications of the objects available in the database.

13. The system of claim 11, wherein the broadcast system is configured to create the objects and the object identifications and save the objects in the database.

14. The system of claim 11, wherein the broadcast system is configured to deliver the object identification to at least one user terminal through the mobile radio system.

15. The system of claim 11, wherein the broadcast system is configured to deliver the object identification to at least one user terminal as an RDS broadcast.

16. The system of claim 11, wherein the user terminal is configured to send the transaction signal directly to the database of the object provider through the mobile radio system.

17. The system of claim 11, wherein the media system further comprises a server serving the broadcast system, and the user terminal is configured to send the transaction signal to the server through the mobile radio system, the server being configured to send a signal with the object identification to the database of the object provider.

18. The system of claim 11, wherein the broadcast system comprises a content creation tool configured to associate the object identification to the media stream such that the object identification is attached to a broadcasting timeline of the media stream, and to deliver the object identification in accordance with the broadcasting timeline of the media stream.

19. The system of claim 11, wherein the media system further comprises a billing unit configured to record and process of the transfer of each object to the user terminals for billing purposes.

20. The system of claim 11, wherein the user terminal is configured to identify the format of the object identification and the object, the identifying revealing information, including the supporting application needed, additional rights pertaining to the object, forwarding limitations associated with the object, or any combination thereof.

21. A user terminal of a mobile radio system, wherein the user terminal is configured to

receive an object identification of an object and a widget wirelessly from a broadcast system, the object being associated and synchronized to the broadcast media stream in the broadcast system,

present the object identification and the widget in synchronization with the media stream in the user terminal,

send, if a user requests the delivery of the object based on the object identification, a transaction signal with the object identification of at least one object through the mobile radio system to a database by activation of the widget, and

receive the object of the object identification delivered from the database through the mobile radio system.

22. The user terminal of claim 21, wherein the user terminal is configured to receive the object identification from the broadcast system through the mobile radio system.

23. The user terminal of claim 21, wherein the user terminal is configured to receive the object identification from the broadcast system as an RDS broadcast.

24. The user terminal of claim 21, wherein the user terminal is configured to send a transaction signal directly to the database of the object provider through the mobile radio system.

25. The user terminal of claim 21, wherein the user terminal is configured to send a transaction signal from the user terminal to a server serving the broadcast system through the mobile radio system, the server then sending a signal with the object identification to the database of the object provider.

26. The method of claim 1, further comprising receiving the widget before or during a piece of media stream.

27. The system of claim 11, wherein the broadcast system is configured to deliver the at least one widget and the user terminal is configured to receive the at least one widget before or during a corresponding piece of media stream.

28. The user terminal of claim 21, wherein the user terminal is configured to receive the widget before or during a corresponding piece of media stream.

X. EVIDENCE APPENDIX

Appellants are unaware of any evidence that is required to be submitted in the present Evidence Appendix.

XI. RELATED PROCEEDINGS APPENDIX

Appellants are unaware of any related proceedings that are required to be submitted in the present Related Proceedings Appendix.